

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL NO. 1:06CR20-8
(Judge Keeley)

DWAYNE ANDERSON,

Defendant.

ORDER FOLLOWING OCTOBER 23, 2008 MOTIONS HEARING

On October 23, 2008, the Court conducted a hearing to address several pending pro se motions filed by the defendant, Dwayne Anderson ("Anderson"), as well as a motion to withdraw filed by his attorney, Martin Sheehan ("Sheehan"). For the reasons stated on the record at that hearing, the Court **GRANTS** Sheehan's motion to withdraw as defense counsel and for an extension of time for Anderson to file a re-sentencing brief (dkt. no. 634). It also **GRANTS** Anderson's pro se motion to continue his re-sentencing hearing (dkt. no. 632).

The Court directs Anderson to notify the Clerk's office by November 24, 2008 about whether he has retained counsel. If he has done so, his counsel must note an appearance in this case and should file any memorandum regarding relevant sentencing issues pertaining to Anderson's case by **Monday, November 24, 2008**. The

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Government's reply brief will then be due by **Friday, December 5, 2008.**

Based on these rulings, the Court **CANCELS** the re-sentencing hearing currently set for Friday, October 31, 2008 and **RESCHEDULES** that hearing to **Thursday, December 18, 2008 at 9:30 a.m.** at the **Clarksburg, West Virginia** point of holding court.

Further, the Court **DENIES WITH PREJUDICE** Anderson's motion to dismiss his indictment (dkt. no. 565), his motion for jurisdictional hearing (dkt. no. 596), and his motion for tape analyzation (dkt. no. 638). It **HOLDS-IN-ABEYANCE** Anderson's motion for bond pending sentencing (dkt. no. 641), and directs Anderson's new counsel file any brief regarding that issue prior to the sentencing hearing.

Finally, the Court **DENIES AS MOOT** Anderson's motion for leave to appeal the denial of his second motion under Federal Rule of Civil Procedure 60(b)(4)(dkt. no. 562) because the Court's leave to appeal is not required for such motion, and Anderson's notice of appeal was transmitted to the Fourth Circuit Court of Appeals several days after the filing of that motion.

It is so **ORDERED**.

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The Court **DIRECTS** the Clerk to transmit copies of this Order to counsel of record, the Office of Probation and all appropriate agencies, and to the pro se defendant, by certified mail, return receipt requested.

DATED: October 24, 2008.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE